Appendix E
Consultations

APPENDIX E
CONSULTATIONS

The U.S. Department of Energy (DOE) began consultation efforts with the appropriate agencies, tribes, and members of the public prior to publication of the 2008 Notice of Intent in the *Federal Register* (FR) (73 FR 28437) and has continued consultations since. Such consultations are performed in accordance with the intent and spirit of the National Environmental Policy Act (NEPA) and with applicable Federal and state laws and Executive Orders, as described in the following sections. Additional information on applicable regulatory requirements is found in Chapter 8 of this *Draft Environmental Impact Statement for Remediation of Area IV and the Northern Buffer Zone of the Santa Susana Field Laboratory (Draft SSFL Area IV EIS)*.

E.1 Cultural Resources

E.1.1 Regulatory Environment

The National Historic Preservation Act (NHPA) provides for preservation of cultural resources and promotes a policy of cooperation between Federal agencies, states, tribes, and local governments. The NHPA created the Advisory Council on Historic Preservation to serve as an independent counsel on historic preservation issues to the President, Congress, and Federal and state agencies. This Act also requires agencies to consult with Native American tribes if a proposed Federal action may affect historic properties to which they attach religious and cultural significance. Supplementary guidance for Native American consultation under Section 106 is also available in *Consultation with Native American Tribes in the Section 106 Review Process: A Handbook* (ACHP 2008). The American Indian Religious Freedom Act sets the policy of the United States to "protect and preserve for American Indians their inherent right of freedom to believe, express, and exercise the traditional religions of the American Indian…including but not limited to access to sites, use and possession of sacred objects, and the freedom to worship through ceremonials and traditional rites." Executive Order 13007, *Indian Sacred Sites*, requires that, in managing Federal lands, agencies must accommodate access and ceremonial use of sacred sites, which may or may not be protected by other laws or regulations, and must avoid adversely affecting the physical integrity of these sites. The Presidential *Memorandum on Government-to-Government Relations with Native American Tribal Governments* specifies a commitment to developing more-effective day-to-day working relationships with tribal governments. Executive Order 13175, *Consultation and Coordination with Indian Tribal Governments*, reaffirms the U.S. Government's responsibility for continued collaboration and consultation with tribal governments in the development of Federal policies that have tribal implications. This Executive Order also seeks to strengthen U.S. Government-to-Government relationships with Native American tribes and reduce the imposition of unfunded mandates upon those tribes.

E.1.2 Federal, State, Local Agency, and Public Consultation

DOE identified relevant Federal and local agencies that might have cultural resources concerns. **Table E–1** lists the primary contacts made and DOE interactions in support of compliance with Section 106 of the NHPA (Title 36, *Code of Federal Regulations*, Section 800.2(c) [36 CFR 800.2(c)]). Correspondence with the California State Historic Preservation Officer (SHPO) initiated formal consultation for the proposed undertaking in 2009; the consultation relationship was renewed in 2014. DOE and SHPO continue to consult regarding the proposed undertaking and the associated Section 106 Programmatic Agreement. DOE is also consulting with concerned members of the public and tribes (see Tables E–2 and E–3) regarding the Section 106 Programmatic Agreement.

Table E–1 SHPO and Other Section 106 Consultation-Related Contacts

Recipient	***From***	***Date***	***Subject/Notes***
M. W. Donaldson, California SHPO	Stephanie Jennings, DOE	April 20, 2009	Request from DOE to initiate Section 106 and NEPA consultation with the California SHPO.
Stephanie Jennings, DOE NEPA Manager	Cheryl Foster-Curley, SHPO	June 3, 2009	E-mail regarding identification status of buildings. Ms. Foster-Curley notes they will need to be evaluated, and Ms. Jennings replies that they have been and were found to be not eligible.
Federal, state, and local agencies and members of interested public – California State University Northridge – California Department of Fish and Game, Region 5 – California Department of Parks and Recreation – California Native Plant Society Los Angeles/Santa Monica Mountains Chapter – California State Assembly – Cleanuprocketdyne.org and Aerospace Cancer Museum of Education – Members of the local professional cultural resources community – California OHP/SHPO – Renewable Resources Group – Santa Barbara Museum of Natural History – Santa Monica Mountains Conservancy – Santa Susana Mountain Park Association – U.S. Fish and Wildlife Service, Ventura Fish and Wildlife Office – West Hills Neighborhood Council – Boeing – EPA – GSA – NASA	Stephanie Jennings, DOE	November 2009	Invitation to participate in a tour and workshop focused on cultural and natural resources found within Area IV and the NBZ at SSFL.
Site tour attendees – California SHPO – California Department of Parks and Recreation – California Native Plant Society – Cleanuprocketdyne.org and Aerospace Cancer Museum of Education – Members of the local professional cultural resources community – Renewable Resources Group – Santa Susana Mountain Park Association Board of Directors – Santa Susana Mountain Park Association – U.S. Fish & Wildlife Service – West Hills Neighborhood Council – EPA – GSA – NASA	DOE	December 2, 2009	Tour and workshop focused on cultural and natural resources found within Area IV and the NBZ at SSFL.

Recipient	***From***	***Date***	***Subject/Notes***
M. W. Donaldson, SHPO	Craig Cooper, EPA	June 3, 2010	Radiological characterization of Area IV. Although this letter is from EPA, not DOE, it regards Area IV, is phrased as Section 106 consultation, and is the result of an interagency cooperation agreement between DOE and EPA.
Craig Cooper, EPA	Susan Stratton for M. W. Donaldson, SHPO	July 15, 2010	SHPO concurs with EPA's finding of no adverse effect on historic properties. SHPO also concurs that the buildings are not eligible and "with your finding of not eligible for the 263 historic structures listed in Table 1 of the report: Historic Structures/Sites Report for Area IV of the Santa Susana Field Laboratory by Post/Hazeltine Associates."
M. W. Donaldson, SHPO	Craig Cooper, EPA	October 15, 2010	Radiological characterization of the NBZ. Although this letter is from EPA, not DOE, it regards Area IV, is phrased as Section 106 consultation, and is the result of an interagency cooperation agreement.
M. W. Donaldson, SHPO	Stephanie Jennings, DOE	September 28, 2011	Package of information regarding consultation with tribes.
M. W. Donaldson, SHPO	Stephanie Jennings, DOE	October 24, 2011	Package of information regarding location of geological trenching and archaeological sites.
Carol Roland-Nawi, SHPO	Stephanie Jennings, DOE	February 11, 2013	Requests initiation of Section 106 and NEPA consultation.
Stephanie Jennings, DOE	Susan K. Stratton for Carol Roland-Nawi, SHPO	February 15, 2013	Requests clarification of whether DOE intends to substitute NEPA for Section 106.
Carol Roland-Nawi, SHPO	Stephanie Jennings, DOE	May 2013	Clarifies that DOE does not intend to use "substitution" to comply with Section 106.
Stephanie Jennings, DOE	Kathleen Martyn Goforth, Environmental Review Section, EPA	April 2, 2014	Reiterates Section 106 and tribal consultation concerns per Executive Order 13007, *Indian Sacred Sites*.
Carol Roland-Nawi, SHPO, represented on the tour by Susan K. Stratton and Ed Carroll, OHP	DOE, plus NASA, Boeing, and DTSC	April 24, 2014	SHPO tour. Includes representatives of DOE, NASA, Boeing, and DTSC cultural resources.
Carol Roland-Nawi, SHPO; Ed Carroll, Timothy Grant, and Brendon Greenaway, OHP	John Jones and Stephanie Jennings, DOE; John Wondolleck, CDM Smith; Sandy Enyeart and Stephen Bryne, Leidos	December 16, 2014	Presentation on the DOE undertaking at SSFL. Report on architectural history and archaeological studies to date. Discussion of next steps in the Section 106 process (definition of the APE and results of identification).
John Jones, DOE, ETEC Director	Carol Roland-Nawi, SHPO	February 25, 2015	Acknowledges initiation of Section 106 consultation and consultation regarding the APE; agrees that DOE's determination of the APE is consistent with definition in 36 CFR 800.16(d) and encloses map of APE with approval signature.
Ed Carroll, Brendon Greenaway, OHP	Stephanie Jennings, DOE; Sandy Enyeart, Lorraine Gross, Stephen Bryne, Leidos	April 10, 2015	Discussion of Section 106 steps. Consultation on APE (APE map signed by Dr. Carol Roland-Nawi on February 24, 2015). Discussion of the potential of an archaeological district for all of SSFL. SHPO input on Extended Phase I Work Plan.

Recipient	***From***	***Date***	***Subject/Notes***
Ed Carroll, Timothy Grant, Brendon Greenaway, and Annmarie Medin, OHP	John Jones and Stephanie Jennings, DOE; John Wondolleck, CDM Smith; Stephen Bryne, Leidos	November 5, 2015	Discussion of Section 106 status and presentation of results of the Extended Phase I study. Delivered letter from DOE requesting SHPO concurrence on the eligibility of 10 archaeological sites in Area IV.
Advisory Council on Historic Preservation	Stephanie Jennings, DOE	May 5, 2016	Invitation to participate in Section 106 consultation to develop a Programmatic Agreement to resolve adverse effects to historic properties.
Teena Takata, Santa Susana Mountain Park Association; Kathleen Martyn Goforth, EPA Region IX; Sharon Dabek, Mark B. Osokow, San Fernando Valley Audubon Society; Scott Silverstein, Woodland Hills-Warner Center Neighborhood Council; Karen DiBiase, West Hills Neighborhood Council; Dan Larson and Gwen Romani, Compass Rose Archaeological, Inc.; Christine Rowe, David Szymanski, Santa Monica Mountains National Recreation Area, National Park Service; Abraham Weitzberg, SSFL Community Advisory Group; John Luker, Santa Susana Mountain Park Association; Anthony Zepeda; Sam Cohen, Santa Ynez Band of Chumash Indians; Barbara Tejada; Christina Walsh	John Jones, DOE	May 5, 2016	Invitation to demonstrate legal or economic relation to the undertaking or to properties potentially affect the proposed project, and to participate in Section 106 consultation to develop a Programmatic Agreement to resolve adverse effects to historic properties.
Stephanie Jennings, DOE	Christina Walsh	May 10, 2016	Accepting invitation to participate in Section 106 Programmatic Agreement development
Stephanie Jennings, DOE	Gary Brown	May 10, 2016	Accepting invitation to participate in Section 106 Programmatic Agreement development
Stephanie Jennings, DOE	Christine Rowe	May 12, 2016	Accepting invitation to participate in Section 106 Programmatic Agreement development
Stephanie Jennings, DOE	Colin Cloud Hampson	May 18, 2016	Accepting invitation to participate in Section 106 Programmatic Agreement development
Stephanie Jennings, DOE	Abe Weitzberg	May 19, 2016	Accepting invitation to participate in Section 106 Programmatic Agreement development
Stephanie Jennings, DOE	Albert Knight	May 20, 2016	Accepting invitation to participate in Section 106 Programmatic Agreement development
Stephanie Jennings, DOE	Advisory Council on Historic Preservation	May 26, 2016	In response to letter of May 6, 2016, declining to participate in Section 106 consultation to develop a Programmatic Agreement to resolve adverse effects to historic properties.
John Jones, DOE	Karen DiBiase	May 31, 2016	Accepting invitation to participate in Section 106 Programmatic Agreement development

Recipient	***From***	***Date***	***Subject/Notes***
Stephanie Jennings, John Jones, and Debbie Kramer, DOE; Wendy Lowe, P2 Solutions	Edward Carroll, State Historic Preservation Office; Brendan Greenaway and Annmarie Medin, California Department of Parks	June 15, 2016	Meeting with SHPO to discuss Section 106 consultation process and Programmatic Agreement
Nicole Doner, Ventura County Cultural Heritage Board; Simi Valley Historical Society; Clark Stevens, Resource Conservation District of the Santa Monica Mountains; Ventura County Archaeological Society	John Jones, DOE	July 14, 2016	Invitation to demonstrate legal or economic relation to the undertaking or to properties potentially affected by the proposed project, and to participate in Section 106 consultation to develop a Programmatic Agreement to resolve adverse effects to historic properties.
Gary M. Brown, Santa Monica Mountains National Recreation Area; Pat Havens, Simi Valley Historical Society; Albert Knight, Santa Barbara Museum of Natural History Anthropology Department; John Luker, Santa Susana Mountain Park Association; Mark Osokow, San Fernando Valley Audubon Society; Bruce Rowe, Christine Rowe, Clark Stevens, Resource Conservation District of the Santa Monica Mountains; Brian Sujata, Barbara Tejada, California State Parks; Alec Uzemeck, SSFL Citizens Advisory Committee; Christina Walsh, SSFL National Monument Project; Ronald Ziman, SSFL Citizens Advisory Committee	John Jones and Stephanie Jennings, DOE	August 17, 2016	Programmatic Agreement Development Meeting

APE = area of potential effect; Boeing = The Boeing Company; DTSC = Department of Toxic Substances Control; EPA = U.S. Environmental Protection Agency; GSA = General Services Administration; NASA = National Aeronautics and Space Administration; NBZ = Northern Buffer Zone; NEPA = National Environmental Policy Act; OHP = Office of Historic Preservation; SHPO = State Historic Preservation Officer.

Concerns expressed by agencies and the public included the following:

- Unnecessary disturbance of sites or collection of artifacts by unauthorized personnel, especially during radiological and chemical characterization and sampling activities
- Cooperation and coordination with the other land managers at Santa Susana Field Laboratory (SSFL) (the National Aeronautics and Space Administration [NASA] and The Boeing Company [Boeing])
- Fire danger
- Archaeological site protection
- Definition of terms included in the 2010 *Administrative Order on Consent for Remedial Action* (2010 AOC) (DTSC 2010) and associated documents, including the term, "Native American artifacts that are formally recognized as Cultural Resources."

In compliance with Section 106 of the NHPA, consultation is ongoing and will continue until the process is complete.

E.1.3 Native American Consultation

Although informal consultation has been ongoing with tribes and other members of the interested public, the Santa Ynez Band of Chumash Indians is the only federally recognized tribe. DOE initiated Government-to-Government consultation with the Santa Ynez Band of Chumash Indians in January 2014, in compliance with the NHPA, NEPA, Executive Orders 13007 and 13175, and the Presidential *Memorandum on Government-to-Government Relations with Native American Tribal Governments* (see Chapter 8, Section 8.1.8, of this EIS). At the time, DOE also formally issued an invitation to the Santa Ynez Band of Chumash Indians to be a cooperating agency for this environmental impact statement (EIS), and the invitation was accepted (letter dated February 9, 2014). DOE also consulted with tribes that are not federally recognized throughout the NEPA and Section 106 process.

Assembled tribes (people affiliated with the Santa Ynez Band of Chumash Indians, the Santa Ynez Band Tribal Elders Council, the Fernandeño Tataviam Band of Mission Indians, Chumash/Tataviam/Fernandeño heritage, and the Barbareño/Ventureño Band of Mission Indians) expressed the following sentiments and general areas of concern regarding the proposed action and cultural resources at SSFL during the 2014 scoping period (DOE 2014):

- DOE should work with the California Department of Toxic Substances Control (DTSC) and the collective tribes to broadly define and apply the Native American artifacts exemption (also referred to as an exception) contained in the 2010 AOC, Attachment B, "Final Agreement in Principle."
- If an archeological site exists in a contaminated area, DOE should first request an exemption in accordance with the 2010 AOC. If an exemption is not permitted by DTSC, DOE should implement all necessary data recovery efforts and decontaminate whatever is recovered, with the ultimate disposition, either museum placement or reburial, in accordance with the decision of the collective tribes.

- Area IV should be considered a traditional cultural property, eligible for protection via the *National Register of Historic Places* and applicable provisions from National Register Bulletin No. 38, *Guidelines for Evaluating and Documenting Traditional Cultural Properties under the NHPA* (NPS 1998), and linked to Burro Flats [the Burro Flats Painted Cave site in Area II is listed on the *National Register of Historic Places* (Number 76000539, March 10, 1975)].

- The tribes would like access to cultural resources studies at SSFL and maps of site locations and overall chemical or radiological contamination areas.

- The tribes requested assurance that Native American monitors would be required where there is any excavation of dirt or removal of structures, and that the monitors would receive training and appropriate gear if they are to be present in areas where there is radiological and chemical contamination. Training should include hazard materials training, and all training and personal protective equipment should be provided by DOE.

- The tribes requested additional research at and subsurface review of all areas scheduled for excavation, as well as additional studies in areas where there are known sites, using the least intrusive measures possible (e.g., samples should be dug by hand).

- The agreement not to excavate any dirt, per the SHPO, needs to be revisited.[1]

- The *Memorandum of Understanding Among the U.S. Department of Defense, U.S. Department of the Interior, U.S. Department of Agriculture, U.S. Department of Energy, and the Advisory Council on Historic Preservation Regarding Interagency Coordination and Collaboration for the Protection of Indian Sacred Sites* (DOD et al. 2012) and the *Action Plan to Implement the Memorandum of Understanding Regarding Interagency Coordination and Collaboration for the Protection of Indian Sacred Sites* (DOD et al. 2013) should be applied to the SSFL site.

- The EIS should address Cultural Resources as directed by the applicable laws and regulations, including how DOE will avoid adversely affecting the physical integrity, accessibility, or use of sacred sites.

- DOE should develop a Cultural Resources Management Plan. The tribes should be included, in consultation with SHPO, if new archaeological sites are discovered. The agency archaeologist should meet professional qualification standards.

- All environmental factors should be considered when assessing the overall cultural sensitivity of the SSFL; significant, negative, and unmitigated impacts to sacred sites and cultural resources would result from soil cleanup to background.

Tables E–2 and **E–3** summarize tribal consultation efforts.

[1] This may refer to Public Resources Code 21084.3(a): "Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource," as well as to common professional practices.

Table E–2 Summary of Native American Meetings at the Santa Susana Field Laboratory

Native American Meetings at SSFL		
Date	***Event***	***Invited and Attendee Affiliation in addition to DOE*** [a]
December 3, 2009	Tour and workshop focused on cultural and natural resources found within Area IV and the NBZ at SSFL	*Invited affiliations:* – Chumash – Chumash, Fernandeño, Tataviam, Kitanemuk – Chumash, Fernandeño, Tataviam, Shoshone Paiute, Yaqui – Chumash, Tataviam, Fernandeño – Coastal Band of the Chumash Nation – Fernandeño Tataviam Band of Mission Indians – Los Angeles City/County Native American Indian Commission – San Luis Obispo County Chumash Council, Chumash – Santa Ynez Band of Mission Indians, Chumash – Santa Ynez Tribal Elders Council, Chumash – Santa Ynez Band of Chumash Indians Elders Council, Chumash – Tongva Ancestral Territorial Tribal Nation – Wishtoyo Foundation *Attendee affiliations:* – Chumash – Chumash/Fernandeño/Tataviam/Kitanemuk – Chumash/Fernandeño/Tataviam/Shoshone/Paiute/Yaqui – Chumash/Tataviam/Fernandeño – Fernandeño Tataviam Band of Mission Indians – Santa Ynez Band of Chumash Indians Elders Council – Wishtoyo Foundation
April 2010	Visit Area II's Burro Flats Painted Cave site and Area IV	Fernandeño/Tataviam
September 12, 2011	Meeting/Site Tour	All interested Native American groups
March 3, 2014	NEPA Scoping Meeting for Native Americans	– Santa Ynez Band of Chumash Indians – Santa Ynez Band Tribal Elders Council – Fernandeño Tataviam Band of Mission Indians – Chumash/Tataviam/Fernandeño – Barbareño/Ventureño Band of Mission Indians – DOE Headquarters (via conference call) – California Department of Toxic Substances Control
July 18-19, 2014	Native American Sacred Sites Summit Meeting	*Invited affiliations:* – Los Angeles City/County Native American Indian Commission – Barbareño/Ventureño Band of Mission Indians – Gabrielino Tongva Indians of California – Fernandeño Tataviam Band of Mission Indians – Santa Ynez Band of Chumash Indians – Coastal Band of the Chumash Nation – Chumash/Tataviam/Fernandeño – Chumash – Ketanemuk and Towlumne Tejon Indians – Kizh Gabrieleno Band of Mission Indians – Kern Valley Indian Council – Chumash/Fernandeño/Tataviam/Shoshone/Paiute/Yaqui – Tongva Ancestral Territorial Tribal Nation – San Gabriel Band of Mission Indians – Owl Clan – San Fernando Band of Mission Indians – San Luis Obispo County Chumash Council – Wishtoyo Foundation – San Manuel Band of Mission Indians – DOE

Native American Meetings at SSFL		
Date	***Event***	***Invited and Attendee Affiliation in addition to DOE*** [a]
		– Boeing – National Aeronautics and Space Administration – California Department of Toxic Substances Control – National Park Service – California State Historic Preservation Officer – Native American Heritage Commission – Bureau of Indian Affairs – California Environmental Protection Agency – California State Parks – Thomas King (Author and consultant) – Leidos – CH2M Hill – John Minch & Associates – Environmental Science Associates *Attendee affiliations:* – Los Angeles City/County Native American Indian Commission – Barbareño/Ventureño Band of Mission Indians – Gabrielino Tongva Indians of California – Fernandeño Tataviam Band of Mission Indians – Santa Ynez Band of Chumash Indians – Chumash/Tataviam/Fernandeño – Chumash – Kizh Gabrieleno Band of Mission Indians – Chumash/Fernandeño/Tataviam/Shoshone/Paiute/Yaqui – Wishtoyo Foundation – DOE – Boeing – National Aeronautics and Space Administration – California Department of Toxic Substances Control – National Park Service – California State Historic Preservation Officer – Native American Heritage Commission – Bureau of Indian Affairs – California Environmental Protection Agency – California State Parks – Thomas King (Author and consultant) – Leidos – CH2M Hill – John Minch & Associates
September 4, 2014	Santa Susana Field Laboratory Sacred Sites Council Meeting with DOE	– Santa Ynez Band of Chumash Indians – Fernandeño Tataviam Band of Mission Indians – Chumash/Tataviam/Fernandeño – Barbareño/Ventureño Band of Mission Indians – Wishtoyo Foundation – Chumash Tataviam Native American Monitoring Group – Tataviam – Gabrielino Tongva – MWH Americas, Inc. – California Department of Toxic Substances Control – Leidos

Native American Meetings at SSFL		
Date	***Event***	***Invited and Attendee Affiliation in addition to DOE*** [a]
October 9, 2014	Santa Susana Field Laboratory Sacred Sites Council Site Tour/Meeting with DOE	– Santa Ynez Band of Chumash Indians – Fernandeño Tataviam Band of Mission Indians – Chumash/Tataviam/Fernandeño – Barbareño/Ventureño Band of Mission Indians – MWH Americas, Inc. – California Department of Toxic Substances Control – Leidos
November 21, 2014	Site tour	– Fernandeño Tataviam Band of Mission Indians – Leidos
January 30, 2015	Meet with DOE to discuss proposed Extended Phase 1 archaeological study and tribes input for draft EIS	– Santa Ynez Band of Chumash Indians – Santa Ynez Band of Mission Indians – Ventureño Chumash/Tataviam – Chumash/Tataviam – Ventureño Chumash – Tataviam Band of Mission Indians – Coastal Band of Chumash Nation – Gabrielino Tongva – Leidos
March 16, 2015	Native American Contributions to this *Draft SSFL Area IV EIS*	– Santa Ynez Band of Chumash Indians – Fernandeño Tataviam Band of Mission Indians – Chumash/Tataviam/Fernandeño – Barbareño/Ventureño Band of Mission Indians – Kizh Gabrieleno Band of Mission Indians – Leidos – CDM Smith
April 7, 2015	Santa Susana Field Laboratory Sacred Sites Council Meeting with DOE	– Santa Ynez Band of Chumash Indians – Fernandeño Tataviam Band of Mission Indians – Chumash/Tataviam/Fernandeño – Barbareño/Ventureño Band of Mission Indians – MWH Americas, Inc. – California Department of Toxic Substances Control – Kizh Gabrieleno Band of Mission Indians – Tataviam – Chumash/Tataviam – Gabrielino Tongva Indians of California – Chumash/Gabrielino – Leidos – P2 Solutions
January 21, 2016	Santa Susana Field Laboratory Sacred Sites Council Meeting with DOE	– Fernandeño/Tataviam – Fernandeño/Tataviam/Chumash – Santa Ynez Band of Chumash Indians – Santa Ynez Chumash – Chumash – Gabrieleno and Kizh – Kizh Nation – Native American Monitoring Group – National Aeronautics and Space Administration, Marshal Space Flight Center – National Aeronautics and Space Administration, Headquarters – National Aeronautics and Space Administration, SSFL – JMA – CH2M – P2 Solutions – Leidos

Native American Meetings at SSFL		
Date	**Event**	**Invited and Attendee Affiliation in addition to DOE** [a]
		By phone: – California Department of Toxic Substances Control – National Aeronautics and Space Administration – Environmental Science Associates
July 7, 2016	Programmatic Agreement Development Meeting	– Santa Ynez Band of Chumash Indians – Gabrielino Tongva Indians of California – Chumash, Fernandeño Tataviam – Gabrielino/Tongva Nation – Kizh Gabrieleno Band of Mission Indians – Chumash, Fernandeño Tataviam, Shoshone Paiute, Yaqui – Fernandeño Tataviam Band of Mission Indians – Kizh Gabrieleno Band of Mission Indians – Santa Ynez Band Tribal Elders Council – Tongva Ancestral Territorial Tribal Nation – Chumash, Fernandeño Tataviam – Coastal Band of the Chumash Nation – Barbareño/Ventureño Band of Mission Indians – P2 Solutions – Leidos
August 16, 2016	Programmatic Agreement Development Meeting	– Gabrielino Tongva/Chumash – Government Affairs and Legal Officer for the Santa Ynez Band of Chumash Indians – Public Affairs Director for the Fernandeño Tataviam Band of Mission Indians – Chumash, Fernandeño Tataviam – Tribal Historic and Cultural Preservation Director for the Fernandeño Tataviam Band of Mission Indians – Santa Ynez Band of Chumash Indians – Barbareño/Ventureño Band of Mission Indians – Cultural Preservation Consultant for the Santa Ynez Band Tribal Elders Council – Fernandeño Tataviam/Ventureño Chumash – P2 Solutions – Leidos
October 4, 2016	Programmatic Agreement Development Meeting	– Gabrielino Tongva/Chumash – Government Affairs and Legal Officer for the Santa Ynez Band of Chumash Indians – Public Affairs Director for the Fernandeño Tataviam Band of Mission Indians – Chumash, Fernandeño Tataviam – Santa Ynez Band of Chumash Indians – Fernandeño Tataviam Band of Mission Indians – Barbareño/Ventureño Band of Mission Indians – Cultural Preservation Consultant for the Santa Ynez Band Tribal Elders Council – Fernandeño Tataviam/Ventureño Chumash – P2 Solutions (facilitator) – Leidos (monitor)

Boeing = The Boeing Company; NBZ = Northern Buffer Zone; NEPA = National Environmental Policy Act.

[a] Affiliations provided by attendees.

Table E–3 Summary of Native American and Related Formal Contacts

Section 106, Government-to-Government, NEPA			
Recipient	***From***	***Date***	***Subject***
Larry Myers, NAHC	Stephanie Jennings, DOE	April 20, 2009	Request for Tribal Consultation List and information on sacred lands.
Stephanie Jennings, DOE	Katy Sanchez, NAHC	November 3, 2009	Response to April 20, 2009, letter from DOE. Includes Native American Tribal Consultation List.
Stephanie Jennings, DOE	Fernandeño Tataviam Band of Mission Indians, William Gonzalez, Chairman	May 10, 2010	Thanks for tour of April 2010.
Milford Wayne Donaldson, California SHPO	Fernandeño Tataviam Band of Mission Indians William Gonzalez, Chairman	June 12, 2010	Regarding concerns about EPA's characterization program and cultural resources protocols.
Cynthia Gomez, Executive Director, NAHC	Stephanie Jennings, DOE	February 11, 2013	1) Resubmitting the "Local Government Tribal Consultation List Request" 2) "Information on sacred lands and Native American contacts, both federally recognized and other Native American groups who might have interests in the area."
Stephanie Jennings, DOE	Dave Singleton, NAHC	February 15, 2013	Reply to request for sacred lands search and Native American Contacts.
Wendy Green Lowe, P2 Solutions	Dave Singleton, NAHC	November 27, 2013	Reply to request for Sacred Lands search and Native American contacts.
Stephanie Jennings, DOE	Vincent Armenta, Tribal Chairman, Santa Ynez Band of Chumash Indians	January 20, 2014	Requesting Section 106 consultation from DOE.
Stephanie Jennings, DOE	Vincent Armenta, Tribal Chairman, Santa Ynez Band of Chumash Indians	January 20, 2014	Designates the DOE portion of SSFL as an Indian sacred site pursuant to Executive Order 13007, *Indian Sacred Sites*.
Vincent Armenta, Santa Ynez Band of Chumash Indians	David Huizenga, Senior Advisor for Environmental Management, DOE	February 5, 2014	Invitation to be cooperating agency for the EIS for Area IV and NBZ.
Stephanie Jennings, DOE	Vincent Armenta, Tribal Chairman, Santa Ynez Band of Chumash Indians	February 9, 2014	Santa Ynez Band of Chumash Indians accepts invitation to be cooperating agency for the EIS for Area IV and NBZ, with Santa Ynez Band of Chumash Indians POC Sam Cohen, Government and Legal Specialist for the Santa Ynez Band of Chumash Indians.

Section 106, Government-to-Government, NEPA			
Recipient	***From***	***Date***	***Subject***
Vincent Armenta, Santa Ynez Band of Chumash Indians, and Sam Cohen Tribal Counsel	Stephanie Jennings, DOE	February 20, 2014	Invitation to share plans for EIS and seek input from Tribe on the scope of the EIS. Also invitation to attend a special scoping meeting for Native Americans.
Stephanie Jennings, DOE	Sam Cohen, Santa Ynez Band of Chumash Indians	March 30, 2014	Santa Ynez Band of Chumash Indians provides additional scoping comments on the EIS.
Stephanie Jennings, DOE	Sam Cohen, Santa Ynez Band of Chumash Indians	December 3, 2014	Via e-mail, "RE: Santa Susana Field Laboratory (SSFL), Area IV and Northern Buffer Zone EIS and other issues for Secretary."
Joe Calderone, Chumash, Tongva, Mexican; Colin Cloud Hampson, Fernandeño Tataviam Band of Mission Indians; Sam Cohen, Santa Ynez Band of Chumash Indians; Christina Conley-Haddock, Gabrielino Tongva Tribe; Kimia Fatehi, Tataviam; Beverly Salazar Folkes, Chumash, Tataviam, Fernandeño; Sandonne Goad, Gabrielino/Tongva Nation; Martha Gonzalez, Kizh Gabrieleno Band of Mission Indians; Caitlin Gulley, Fernandeño Tataviam Band of Mission Indians; Randy Guzman-Folkes, Chumash, Fernandeño, Tataviam, Shoshone Paiute, Yaqui; Brian Holguin, Santa Ynez Band of Chumash Indians; Adam Loya, Gabrielino/Tongva Nation; Frances Ortega, Fernandeno Tataviam Band of Mission Indians; Rudy Ortega, Fernandeno Tataviam Band of Mission Indians; Steve Ortega, Fernandeno Tataviam Band of Mission Indians; Kathy Pappo, Barbareño/Ventureño Band of Mission Indians; Tim Poyorena-Miguel, Kizh Gabrieleno Band of Mission Indians; Freddie Romero, Santa Ynez Band Tribal Elders Council; John Tommy Rosas, Tongva Ancestral Territorial Tribal Nation; Andrew Salas, Kizh Gabrieleno Band of Mission Indians; Alan Salazar, Chumash, Tataviam, Fernandeno; Gary Stickel, Kizh Gabrieleno Band of Mission Indians; Maura Sullivan, Coastal Band of the Chumash Nation; Christina Swindall, Tribal Secretary, Kizh Gabrieleno Band of Mission Indians; Patrick Tumamait, Barbareño/Ventureño Band of Mission Indians; Julie Lynn Tumamait-Stennslie, Barbareño/Ventureño Band of Mission Indians	John Jones, DOE	May 5, 2016	Invitation to participate in development of the Section 106 Programmatic Agreement

Section 106, Government-to-Government, NEPA			
Recipient	***From***	***Date***	***Subject***
Stephanie Jennings, DOE	John Tommy Rosas	May 6, 2016	Accepting invitation to participate in Section 106 Programmatic Agreement development
Stephanie Jennings, DOE	Alan Salazar	May 9, 2016	Accepting invitation to participate in Section 106 Programmatic Agreement development
Stephanie Jennings, DOE	Freddie Romero	May 9, 2016	Accepting invitation to participate in Section 106 Programmatic Agreement development
Stephanie Jennings, DOE	Patrick Tumamait	May 10, 2016	Accepting invitation to participate in Section 106 Programmatic Agreement development
Stephanie Jennings, DOE	Sam Cohen	May 10, 2016	Accepting invitation to participate in Section 106 Programmatic Agreement development
Stephanie Jennings, DOE	Kathleen Pappo	May 14, 2016	Accepting invitation to participate in Section 106 Programmatic Agreement development
Stephanie Jennings, DOE	Brian Holguin	May 17, 2016	Accepting invitation to participate in Section 106 Programmatic Agreement development
Stephanie Jennings, DOE	Caitlin Gulley	May 17, 2016	Accepting invitation to participate in Section 106 Programmatic Agreement development
Stephanie Jennings, DOE	Beverly Folkes	May 18, 2016	Accepting invitation to participate in Section 106 Programmatic Agreement development
Stephanie Jennings, DOE	Joe Calderon	May 24, 2016	Accepting invitation to participate in Section 106 Programmatic Agreement development
Stephanie Jennings, DOE	Andy Salas	May 25, 2016	Accepting invitation to participate in Section 106 Programmatic Agreement development
Stephanie Jennings, DOE	Kenneth Kahn, Santa Ynez Band of Chumash Indians Tribal Chairman	August 24, 2016	Letter requesting Section 106 consultations for the SSFL and proposed undertaking by DOE
Kenneth Kahn, Santa Ynez Band of Chumash Indians Tribal Chairman	John Jones	August 26, 2016	Reaffirming DOE's commitment to enter into formal consultation, as stated in previous letters of February 20, 2016 and May 5, 2016.

EIS = environmental impact statement; EPA = U.S. Environmental Protection Agency; NAHC = Native American Heritage Commission; NEPA = National Environmental Policy Act; NBZ = Northern Buffer Zone; POC = Point of Contact; SHPO = State Historic Preservation Officer.

E.2 Biological Resources

E.2.1 Regulatory Environment

The Endangered Species Act (ESA) requires Federal agencies with reason to believe that a prospective action may affect an endangered or threatened species or its habitat to consult with the U.S. Fish and Wildlife Service (USFWS) and/or National Marine Fisheries Service, depending on the species involved, to ensure that the action does not jeopardize the continued existence of the species or destroy or adversely modify its critical habitat (50 CFR Part 17). Because remediation of SSFL Area IV and the Northern Buffer Zone has the potential to affect federally listed threated or endangered species, DOE will consult with USFWS in compliance with Section 7 of the ESA. Informal consultation has been ongoing with USFWS and the California Department of Fish and Wildlife (CDFW, formerly called the California Department of Fish and Game) since 2009, as described below in **Table E–4**.

Table E–4 Biological Resources Meetings and Teleconferences

Date	*Event*	*Participants*
September 16, 2009	Biological Survey Meeting: SSFL Area IV and the Northern Undeveloped Land (i.e., the Northern Buffer Zone) (included office meeting and site visit) Discussion of Study Plan for Fall Biological Surveys	– USFWS: Jenny Marek, Mark Elvin – CDFG (now CDFW):[a] Mary Meyer – California Native Plant Society: Betsey Landis, Snowdy Dodson – EPA: Craig Cooper, Gregg Dempsey – DOE: Stephanie Jennings, Lance Martin, Thomas Johnson – The Boeing Company (Boeing): Ravnesh Amar, Paul Costa, Randy Ueshiro – CDM Smith: John Wondolleck – SAIC (now Leidos): Tom Mulroy, Debra Barringer – HydroGeoLogic, Inc.: Eric Evans
November 4, 2009	SSFL Biological Survey Meeting at USFWS Offices in Ventura, California. Discussion of Fall Biological Survey Results	– USFWS: Jenny Marek, Mark Elvin, Chris Delith – CDFG: Mary Meyer – EPA: Craig Cooper, Mary Aycock – DOE: Stephanie Jennings – CDM Smith: John Wondolleck – HydroGeoLogic, Inc.: Eric Evans – SAIC (now Leidos): Tom Mulroy
June 26, 2013	Biological resource meeting and field trip at DOE Simi Valley and SSFL Area IV	– USFWS: Jenny Marek, Mark Elvin – CDFW (formerly CDFG): Mary Meyer – San Fernando Valley Audubon: Mark Osokow – CNPS: Mark Osokow – Southwestern Herpetological Society: Mark Osokow – Santa Susana Mountain Park Association: John Luker, (Vice-President) – DTSC: Brian Faulkner (Ecological Risk Assessor), Laura Rainey (Project Manager) – DOE: Stephanie Jennings, John Jones, Jazmin Bell – CDM Smith: John Wondolleck – Leidos: Tom Mulroy, Tara Schoenwetter
March 3, 2014	Biological scoping meeting held at DOE Simi Valley and via teleconference	– USFWS: Jenny Marek, Mark Elvin – CDFW: Mary Meyer – MWH Americas, Inc.: David Collins, Dixie Hambrick – DOE: Stephanie Jennings, John Jones – CDM Smith: John Wondolleck – Leidos: Tom Mulroy, Tara Schoenwetter

Date	***Event***	***Participants***
November 6, 2014	Meeting with USFWS, CDFW, and USACE, at USFWS office, Ventura, California Topics: Exclusion zones, including California Rare Plant Rank Species, and Coast live oak areas Mapping of vegetation and wetlands/waters of the U.S.	– USFWS: Jenny Marek, Mark Elvin – CDFW: Mary Meyer, Christian Van Jackson – USACE: Antal Szijj, Jeff Phillips – MWH Americas, Inc.: David Collins, Dixie Hambrick – DTSC: Brian Faulkner, Laura Rainey – DOE: Stephanie Jennings, John Jones – CDM Smith: John Wondolleck – Leidos: Tom Mulroy, Tara Schoenwetter
November 4, 2015	Meeting with USFWS, CDFW, and USACE, at USFWS office, Ventura, California Topics: SSFL site-wide biological assessment, provide updates, ask questions and determine next steps; proposed 2010 AOC exemption areas in Area IV; annotated outline and action area; site-wide habitat map status update; species to be covered; schedule for next meeting	– USFWS: Jenny Marek – CDFW: Mary Meyer – DOE: Stephanie Jennings, John Jones, Steve Tetreault – CDM Smith: John Wondolleck – USACE: Antal Szijj, – DTSC: Matt Wetter, Brian Faulkner, Laura Rainey, Roger Paulson, – Leidos: Tom Mulroy, Tara Schoenwetter, Lauren Brown – NASA: Allen Elliott – CH2M Hill (for NASA): Steven Long, Gary Santolo – Padre (for Boeing): Chris Dunn
December 9, 2015	Meeting with USFWS, CDFW, DTSC, DOE, NASA, Boeing, at DOE office Simi Valley, California. Topics: Discuss the SSFL site-wide Biological Assessment and chemicals of concern. To provide a preliminary overview of chemicals in relation to the AOC exemption areas. Review of contaminants of concern, perform a GIS exercise, address questions; identify next steps	– USFWS: Jenny Marek – DOE: John Jones, Stephanie Jennings – CDM Smith: John Wondolleck, Rebecca Farmer, Catherine Love – DTSC: Matt Wetter, Laura Rainey, Brian Faulkner, Roger Paulson – CDFW: Jeff Humble, Christine Found-Jackson – ESA: May Lau, Deanna Hansen – NASA: Allen Elliott – CH2M: Randy Dean – DTSC: Kim Hudson – Boeing: Paul Costa – Leidos: Tom Mulroy, Tara Schoenwetter
June 16, 2016	Meeting with USFWS, DOE, DTSC, Boeing, NASA at USFWS office, Ventura, California Topics: Discuss the SSFL site-wide Biological Assessment, AOC and application of exemptions, format of the Biological Opinion, identification of species and their habitats, cleanup criteria being evaluated, identification of chemicals of concern and cleanup criteria for DOE Area IV, evaluation of locations possibly requiring a cleanup action, Soils Remedial Action Implementation Plan status and discussion	– USFWS: Jenny Marek – DOE: John Jones, Stephanie Jennings – CDM Smith: John Wondolleck – DTSC: Mark Malinowski Matt Wetter, Brian Faulkner, Kim Hudson – NASA: Peter Zorba – MWHA: Dixie Hambrick – ESA: Jason Ricks, May Lau – CH2M: Steve Long – Boeing: Paul Costa – Leidos: Tom Mulroy, Tara Schoenwetter, Mike Barta

Date	Event	Participants
July 6, 2016	Meeting with CDFW, DOE, teleconference Topics include: Discuss the Biological Assessment, discuss DOE interpretation of AOC intent for application of exemptions, species and habitats being evaluated for protection under the AOC exemptions, identification and mapping of species and their habitats, exercise of comparing strict AOC cleanup with cleanup based on exemption criteria, protection of oaks, result of exemptions evaluation process as presented in the Soils Remedial Action Implementation Plan, how the exemption protocols will be implemented in the DOE Biological Assessment, next steps for the DOE Biological Assessment	– CDFW: Mary Meyer, Jeff Humble – DOE: John Jones, Stephanie Jennings – CDM Smith: John Wondolleck, Wardah Azhar – NASA: Peter Zorba – Boeing: Paul Costa, Mark Zeller – DTSC: Matt Wetter, Brian Faulkner, Mark Malinowski – ESA: Jason Ricks, Greg Ainsworth – CH2M: Beth Vaughn, Steve Long, Gary Santolo, Mike Bedan, Kelly Teplitsky – Leidos: Tom Mulroy, Tara Schoenwetter, Lauren Brown, Mike Barta

AOC = *Administrative Order on Consent for Remedial Action*; Boeing = The Boeing Company; CDFG = California Department of Fish and Game; CDFW = California Department of Fish and Wildlife; CNPS = California Native Plant Society; DTSC = Department of Toxic Substances Control; EPA = U.S. Environmental Protection Agency; ESA = Environmental Science Associates; GIS = geographic information system; NASA = National Aeronautics and Space Administration; SAIC = Science Applications International Corporation; USACE = U.S. Army Corps of Engineers; USFWS = U.S. Fish and Wildlife Service.

[a] Effective January 1, 2013, the California Department of Fish and Game changed its name to California Department of Fish and Wildlife.

The California Endangered Species Act (CESA) provides protection and preservation of native species and their habitats threatened with extinction and those experiencing a significant decline, which, if not halted, would lead to a threatened or endangered designation. CDFW works to protect and preserve such sensitive resources and their habitats. The CESA allows for take incidental to otherwise lawful activity, but emphasizes early consultation to avoid potential impacts to rare, endangered, and threatened species and to develop appropriate mitigation planning to offset project-caused losses of listed species.

For more regulatory information on Biological Resources, refer to Chapter 8 of this *Draft SSFL Area IV EIS*.

E.2.2 Endangered Species Consultation and Coordination

Formal consultation for the proposed undertaking with USFWS (Ventura, California, Office) has not yet been initiated. DOE is preparing a biological assessment as part of ESA compliance and plans to submit it to USFWS. Depending on the findings of the assessment, DOE will request initiation of formal consultation with USFWS after the biological assessment is submitted.

Informal consultation has been ongoing among DOE, USFWS, and CDFW through periodic meetings and teleconferences since 2009. Table E–4 summarizes informal biological consultation meetings and teleconferences held since June 2013.

In addition to coordination with USFWS and CDFW, DOE has actively sought input from agencies and groups regarding biological resources. Representatives of U.S. Army Corps of Engineers and various groups, including the California Native Plant Society, Audubon Society, Southwest Herpetological Society, and Santa Susana Mountain Park Association, have participated in meetings and onsite reviews of proposed project actions and onsite biological resources.

Concerns expressed by agencies included the following:

- Methods for vegetation mapping, assessment and classification
- Wildlife assessment and protection measures
- Methods and timing for vegetation trimming and protection of listed species during assessment activities
- Evaluation criteria for analyzing environmental effects
- Cleanup methods and technologies
- Current surveys for special status species, including federally and state-listed species, as well as other special status species, including California Rare Plant Rank plants, CDFW California Species of Special Concern, migratory birds, bats, and any local species of concern
- Avoidance, minimization of impacts, and mitigation for federally and state-listed rare, threatened, and endangered species or their habitats, including federally designated critical habitat
- Best management practices to prevent or minimize displacement and death to wildlife during construction
- Revegetation methods, including using only native plant species currently present on the site and locally collected plant materials (i.e., seed, cuttings) for propagation
- Development of restoration performance standards
- Best management practices to prevent or minimize erosion
- Issues associated with spread and control of invasive plant species
- Concerns associated with the protection of oak trees and oak woodlands
- Sustaining wildlife movement corridors and habitat connectivity (on site and within offsite movement corridors)
- Alternatives analysis

E.3 References

ACHP (Advisory Council on Historic Preservation), 2008, *Consultation with Indian Tribes in the Section 106 Review Process: A Handbook*, Washington, DC (available at http://www.achp.gov/regs-tribes2008.pdf), November.

DOE (U.S. Department of Energy), 2014, *Environmental Impact Statement for Remediation of Area IV and the Northern Buffer Zone of the Santa Susana Field Laboratory Final Scoping Summary Report*, Simi Valley, California (available at http://www.etec.energy.gov/Library/Cleanup_and_Characterization/EIS/Final%20Scoping%20 Summary%20Report%20SSFL%20EIS.pdf), August 6.

DTSC (State of California Department of Toxic Substances Control), 2010, *The State of California Environmental Protection Agency, Department of Toxic Substances Control and the United States Department of Energy, In the Matter of: Santa Susana Field Laboratory, Simi Hills, Ventura County, California, Administrative Order on Consent for Remedial Action*, Docket No. HSA-CO 10/11-037, Health and Safety Code Sections 25355.5(a)(1)(B), 58009 and 58010, December 6.

NPS (National Park Service), 1998, *Guidelines for Evaluating and Documenting Traditional Cultural Properties*, National Register Bulletin No. 38 (available at http://www.nps.gov/nr/publications/bulletins/pdfs/nrb38.pdf).

U.S. Department of Defense, U.S. Department of the Interior, U.S. Department of Agriculture, U.S. Department of Energy, and Advisory Council on Historic Preservation, 2012, *Memorandum of Understanding among the U.S. Department of Defense, U.S. Department of the Interior, U.S. Department of Agriculture, U.S. Department of Energy, and the Advisory Council on Historic Preservation Regarding Interagency Coordination and Collaboration for the Protection of Indian Sacred Sites*, December 4.

U.S. Department of Defense, U.S. Department of the Interior, U.S. Department of Agriculture, U.S. Department of Energy, Advisory Council on Historic Preservation, 2013, *Action Plan to Implement the Memorandum of Understanding Regarding Interagency Coordination and Collaboration for the Protection of Indian Sacred Sites*, March 5.